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OFFICE OF PETITIONS

In re Application of	:	
Neerav N. Dalal	:	
Application No. 09/212,852	:	DECISION ON APPLICATION
Filed: December 16, 1998	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
SAMS01-00063	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Determination Under 37 CRR 1.705(b)," filed May 12, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN.**

On February 13, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On May 12, 2006, applicant timely submitted the instant application for patent term adjustment¹. Applicant requests that the Determination of Patent Term Adjustment be corrected from zero (0) days, as indicated on the Determination of PTA mailed February 13, 2006, to an adjustment of 416, or alternatively 386 days.

On Applicant Delay

Applicant asserts that the reduction of period of adjustment of patent term under 37 CFR 1.704(b) is incorrectly calculated based upon Applicant's timely filing of a response to the non-final Office action, mailed July 25, 2002, on December 19, 2002. Applicant provides that Office records incorrectly indicate that the response to the Notice was filed on October 27, 2004. Applicant filed a petition to withdraw the holding of abandonment on October 27, 2004, demonstrating receipt in the

¹ PALM records show that the Issue Fee payment was received in the Office on May 12, 2006.

PTO of the reply to the non-final Office action on December 19, 2002. It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. See § 1.704(c)(4).

Applicant asserts that the reply was filed 143 days after three (3) months from the mailing of the non-final office action. A review of Office records confirms that Applicant filed a reply to the non-final office action mailed July 25, 2002 on December 19, 2002. However, the reply was filed 55 days (not 143 days) after three (3) months from the mailing of the non-final Office action. Thus, a reduction of 55 days is warranted.

Applicant filed a response to the March 1, 2005 non-final Office action on July 5, 2005, 34 days after three (3) months from the mailing of the non-final Office action. Thus, a reduction of 34 days is warranted.

Applicant's delay is calculated as **eighty-nine (89) days** (55 + 34).

On Office Delay

Applicant asserts that Office records incorrectly indicate two (2) days of PTO delay associated with the Office mailing a non-final Office action on March 1, 2005. Applicant notes that, since the reply to the July 25, 2002 non-final Office action was filed December 19, 2002, the March 1, 2005 non-final office action was mailed 593 days after four (4) months from the receipt of the response filed December 19, 2002.

Applicant filed a reply to the non-final office action mailed July 25, 2002 on December 19, 2002. This Office subsequently mailed a non-final office action on March 1, 2005, 682 days (not 593 days) after four (4) months from the receipt of the response filed December 19, 2002. Thus, a period of adjustment of 682 days is warranted.

Office delay is calculated as **six hundred eighty-two (682) days**.

Conclusion

The correct patent term adjustment (PTA) under 37 CFR §§ 1.702(a)(1) and 1.704(b) at the time of the allowance is **five hundred ninety-three (593) days** (682 - 89). The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment

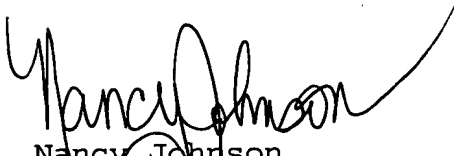
of 593 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 593 days.

The petition fee of \$200.00 has been submitted with the instant petition.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Day : Thursday
Date: 11/16/2006

PALM INTRANET

Time: 08:54:05

PTA Calculations for Application: 09/212852

Application Filing Date:	12/16/1998	PTO Delay (PTO):	2
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	767
Post-Issue Petitions:	0	Total PTA (days):	593
PTO Delay Adjustment:	1358		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
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68	11/16/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		55	
67	11/16/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	733		
56	02/13/2006	MAIL NOTICE OF ALLOWANCE			
55	02/13/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
54	02/13/2006	MAIL EXAMINER'S AMENDMENT			
53	02/10/2006	ISSUE REVISION COMPLETED			
52	02/10/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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50	02/09/2006	NOTICE OF ALLOWABILITY			
49	02/08/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
48	02/09/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
47	12/15/2005	DATE FORWARDED TO EXAMINER			
46	12/09/2005	RESPONSE AFTER NON-FINAL ACTION			
45	09/14/2005	MAIL NON-FINAL REJECTION			
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43	07/12/2005	DATE FORWARDED TO EXAMINER			
42	07/05/2005	RESPONSE AFTER NON-FINAL ACTION		34	39
41	07/05/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	06/02/2005	CASE DOCKETED TO EXAMINER IN GAU			
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37	02/08/2005	DATE FORWARDED TO EXAMINER			
36	10/27/2004	RESPONSE AFTER NON-FINAL ACTION		733	28
35	10/27/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	12/03/2004	MAIL NOTICE OF RESCINDED ABANDONMENT			
33	12/03/2004	NOTICE OF RESCINDED ABANDONMENT IN TCS			
32	12/02/2004	PETITION TO REVIVE APPLICATION - GRANTED			
31	10/27/2004	PETITION ENTERED			
30	02/20/2003	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
29	02/19/2003	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
28	07/25/2002	MAIL NON-FINAL REJECTION			
27	07/24/2002	NON-FINAL REJECTION			
26	07/15/2002	DATE FORWARDED TO EXAMINER			
25	07/09/2002	REQUEST FOR CONTINUED EXAMINATION (RCE)			
24	07/15/2002	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
23	07/09/2002	WORKFLOW - REQUEST FOR CPA - BEGIN			
22	06/13/2002	MAIL ADVISORY ACTION (PTOL - 303)			
21	06/13/2002	ADVISORY ACTION (PTOL-303)			
20	06/12/2002	DATE FORWARDED TO EXAMINER			
19	06/10/2002	AMENDMENT AFTER FINAL REJECTION			
18	04/09/2002	MAIL FINAL REJECTION (PTOL - 326)			
17	04/08/2002	FINAL REJECTION			
16	04/08/2002	DATE FORWARDED TO EXAMINER			
15	04/01/2002	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
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13	04/01/2002	WORKFLOW - REQUEST FOR CPA - BEGIN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION